

CALIFORNIA SCHOOL FINANCE AUTHORITY

Meeting of the Board

Wednesday, June 11, 2014
11:00 a.m.

915 Capitol Mall, Room 587
Sacramento, California 95814

Deputy State Treasurer Michael Paparian, serving as Chair, called the meeting to order.

Roll Call

Members Present: Michael Paparian, designee for Bill Lockyer, State Treasurer
Jennifer Rockwell, designee for Michael Cohen, Director of Finance
Kathleen Moore, designee for Tom Torlakson, Superintendent of Public Instruction

Staff Present: Katrina Johantgen, Executive Director
Kristen Schunk, Program Analyst
David Weinberg, Program Analyst
Steven Theuring, Program Analyst
Ian Davis, Program Analyst

The Chair declared a quorum present.

Approval of Minutes

The minutes for the May 14, 2014 Authority board meeting were approved as presented.

Executive Director's Report

Charter School Facility Grant Program: Ms. Johantgen informed the members that staff is currently processing the 2014-15 funding round grant applications. CSFA received 311 applications and noted that there is an appeal item on today's agenda regarding four late applications that were received; of those, only two applications were noticed. Ms. Johantgen stated that CSFA is on track to get the first apportionments out by the August 31, 2014 deadline.

Charter School Revolving Loan Fund Program: Ms. Johantgen informed the members that two items regarding this topic will be discussed today, Agenda items Nos. 8 and 9.

Conduit Bond Program: Ms. Johantgen informed the members that there are no bond financing items on the agenda this month. Ms. Johantgen added that there is a Credit Enhancement Grant increase and a grant award for the KIPP LA schools. Staff is working on pricing and closing two deals in the next two weeks and anticipates bringing a financing for New Designs at the June 26th board meeting.

Lastly, CSFA is in conversation with a few other schools and financing teams to bring financings before the board later this summer.

Charter School Facilities Program: Ms. Johantgen reported that as of the filing deadline on May 30, 2014, the state received 71 applications for the \$90,000,000 in available funding under CSFP.

State Charter School Facilities Incentive Grants Program: Ms. Johantgen updated the members that after reviewing the 76 applications that were received in May for Funding Round 10 of the Program, it appears that only 36 of the applications will be reviewed for this program because the balance of the applications are eligible for SB 740 funding.

Given that CSFA is administering both programs and the timing is such that the state is funding schools for the same period, any school that is eligible for state funding has to be paid out of the state pot and any school that is not eligible for state funding must be paid out of the incentive grants, as mandated by a Federal requirement, allowing that federal funds can only supplement, not supplant state funding. Ms. Johantgen described and gave examples of schools that fall under the federal category. CSFA will bring these funding recommendations to the board at the June 26th meeting. Additionally, CSFA staff is drafting another application to the U.S. Department of Education for a third funding round under the program.

Ms. Johantgen informed the members that new criteria had been added to this application round; where all first time award applicants will receive an additional 20 preference points out of a total of 140 points. Ms. Johantgen stated that it is too early to determine how competitive this application round will be and will keep the members apprised of all future developments.

Charter School Facilities Credit Enhancement Grant Program: Ms. Johantgen informed the members that CSFA will have exhausted all Credit Enhancement Grant Program allocations with the KIPP item being presented today. CSFA should hear in July if they are receiving another grant under that program, which they applied for on March 1st.

Administrative and Legislative Update: Ms. Johantgen updated the members of Nazarian's Bill AB 1979, which allows CSFA to define the project as finance, refinance and reimbursement for bonds related expenses. The bill would allow reimbursement of existing debt to be financed by CSFA. In addition, this bill would allow the Attorney General's office to step back in and serve as issuer's counsel. Ms. Johantgen stated that she attended a hearing this morning stating that the bill has made it through the Assembly and is now moving through the Senate. The end result depends on how this bill does with the End Rules and Government Committee; it is due to be redirected on June 26, 2014.

Lastly, Ms. Johantgen reported that CSFA is looking at AB 8948, a bill that would expand a school's eligibility in regards to funding under SB 740.

Resolution No. 14-10 – Adoption of the final form of Permanent Regulations for the Charter School Facility Grant Program and Authorizing the Permanent Rulemaking Process

Ms. Johantgen provided the members with a timeline and past history of this program since the adoption of emergency regulations on July 1, 2013. Ms. Johantgen stated that CSFA has been successfully administering the funding of this program and has completed one full year of experience. The proposed changes were made to the sections relating to eligible costs and conflict of interest. Additionally, the terms, “nonprofit” and “dependent,” as they pertain to related parties, were added.

Ms. Johantgen reported that the 45-Day Notice for permanent rulemaking, pursuant to Government Code, Section 11346.4, was issued to OAL on March 20, 2014 and published on April 4, 2014. During the public comment period, the Authority received two public comments. As a result of staff’s review regarding these public comments, staff made modifications to the proposed regulations in Sections 10170.4(a) and (d) relating to eligible costs, and Section 10170.14(a) relating to conflict of interest, and issued a 15-Day Notice for public comment pursuant to Government Code section 11346.8(c), and section 44 of Title 1 of the California Code of Regulations. The 15-Day Notice for the public comment period ended on June 9, 2014.

Staff recommends that the Board adopt Resolution 14-10 approving the proposed permanent regulations for the administration of the Charter School Facility Grant Program. If approved, the Executive Director will initiate the submission of the Certificate of Compliance and supporting documentation for processing by the Office of Administrative Law.

Mark Paxson provided a handout relating to the amended language regarding conflict of interest Section 1090. Mr. Paxson stated that its purpose is to clarify and not confuse the amended language, and its intent is to be the standard for the program.

Four members of the public asked to address the Board regarding Agenda Item 4: 1) Michael Egan, California Teachers Association; 2) Brian Holman, Musick, Peeler & Garrett, LLP; 3) Colin Miller, California Charter School Association; and 4) Eric Premack, Charter School Development Corporation.

Mr. Michael Egan spoke and presented a statement on behalf of the California Teacher’s Association. Mr. Egan stated that the adoption of the proposed permanent regulations contain serious deficiencies and omissions. CTA’s primary concerns are with the Conflict of Interest provisions in the language pertaining to Sections 1090 and 1091. CTA feels the Conflict of Interest provisions, as drafted, undermine rather than advance the intended goals. The Statement of Reasons regarding ‘related parties’ will create confusion as to ‘who and what’ is covered by the Conflict of Interest Regulations. CTA has identified examples of unregulated self-dealing by participants. Originally, the program was intended to cover rent and leases. It is now being used as debt to cover property purchases. CTA is requesting to delay the adoption of these permanent regulations as there is a need for proper monitoring of the use of public monies and that further review of the program is necessary.

The next speaker, Brian Holman, is an attorney whose firm represents numerous charter schools. Mr. Holman also sits on two charter school boards. In his experience, no conflict of interest problems have arisen concerning this program. Mr. Holman stated that the conflict of

interest regulations as drafted are adequate to protect the interests of the state and tax payers.

Mr. Colin Miller, on behalf of the CA Charter School Association, spoke in support of the proposed permanent regulations being presented at the meeting. He stated that the regulations regarding Conflict of Interest provide the needed clarification and structure for the program. Mr. Colin thanked staff and the Authority for administering the much needed funding this program provides, the timely manner in which payments are disbursed, and how staff addresses their questions and concerns.

Mr. Eric Premack, representing CSDC, spoke expressing concern regarding exclusion in the regulation language of insurance and property taxes that in the past have been a core component of rents that have been reimbursed. Mr. Premack also expressed concerns regarding the Conflict of Interest language, the issues regarding self-dealing and related parties' transactions. Mr. Premack suggests amending this language before making the regulations permanent.

Lastly, Mr. Paparian determined that the regulations would be presented for adoption as submitted due to their expiration status. However, he directed staff to engage in and continue regular dialogs with key stakeholders regarding the topics of concern which would potentially result in new regulatory changes.

It was moved and passed with two votes to adopt Resolution No. 14-10 – Adoption of the final form of Permanent Regulations for the Charter School Facility Grant Program and Authorizing the Permanent Rulemaking Process.

Resolution 14-11 – Consideration of Appeal on Behalf of Schools listed in Table A relating to Ineligibility for the Charter School Facility Grant Program

Ms. Johantgen informed the members that CSFA received 8 late applications for the 2014-15 funding round of the Program. All late applicants were notified that their applications were late and that late applications would not be deemed eligible for Program funding. Of the eight, four have submitted formal appeals to staff; these appeal summaries were included in today's board packet. They were identified as: Marysville Charter Academy for the Arts, ACE Charter School, Nova Academy and Los Angeles Academy of Arts and Enterprise. Staff is recommending that the board deny the appeal by the Schools as the program regulations clearly state the submission deadline.

Ms. Johantgen introduced Mr. John Pimentel who spoke on behalf Mr. Tim Malone of the Marysville Charter Academy for the Arts. Mr. Pimentel read from an appeal letter submitted by Mr. Malone that notes the grant application would help rent a space where dance and materials art classes are taught and that this funding is vital to the school's programs. Mr. Pimentel attributed the late submission to a mailing problem with their school district who had mishandled the application.

Ms. Johantgen informed the members that this program is typically undersubscribed. Two of the members expressed empathy towards the late applicants and requested CSFA to determine the dollar amount of the 4 late applications, That capacity amounted to 4.3 million.

It was noted that there is \$20 million remaining for future funding. Ms. Johantgen stated that there is a potential for a second funding opportunity this year, if approved.

Mr. Paparian expressed concern over meeting and adhering to program deadlines and regulations. He determined that if the four appeals were to be approved, that this determination would have to extend to all 8 late applicant's submissions.

It was moved, seconded, and passed unanimously to adopt Resolution No. 14-11– Consideration of Appeal on Behalf of Schools listed in Table A relating to Ineligibility for the Charter School Facility Grant Program.

Resolution 14-12 – Approval of a Financially Sound Determination for the Charter School Facilities Program for Advance/Final Apportionment for Pacific Technology School located in Santa Ana, California.

This agenda item was not presented.

Resolution 14-13 – Approval of a Charter School Facilities Credit Enhancement Grant Program (CDFA #84.354A) Award in an Amount Not to Exceed \$600,000* to KIPP LA Schools for the benefit of the schools listed in Table B Located in Los Angeles County, California.

Ms. Johantgen reported that a similar situation came before the board last month. The Authority is requesting that any unused award money from KIPP Magnolia be given to KIPP LA as they are next in line to receive any excess funding. Staff recommends that the Board adopt Resolution No. 14-13, awarding KIPP LA an award amount not-to-exceed \$600,000. The expiration of the award will be consistent with the current expiration dates in the bond issuance resolutions.

It was moved, seconded, and passed unanimously to adopt Resolution No. 14-13 – Approval of a Charter School Facilities Credit Enhancement Grant Program (CDFA #84.354A) Award in an Amount Not to Exceed \$600,000* to KIPP LA Schools for the benefit of the schools listed in Table B Located in Los Angeles County, California.

Resolution No. 14-14 – Approval of the Form of the Loan Agreement for the Revolving Loan Fund Program.

Ms. Johantgen informed the members that the Authority is asking the board to approve the form of the loan agreement that will be used for the Revolving Loan Fund Program. Staff worked with counsel to develop the attached form of the Loan Agreement that is consistent with the Program statute, regulations and parameters. Section 10170.22 of the Program regulations sets forth that the prior to the issuance of each loan award, the Authority shall require each loan recipient to enter into a loan agreement that sets forth the terms and conditions of the Program. Staff recommends that the Board adopt Resolution No. 14-14, approving the form of the loan agreement for the revolving loan fund program.

After some discussion, a proposed change was made to Section 7.1(a) of the Loan Agreement. The section will now read that the loan recipient shall comply with "program statutes and regulations." Additionally, Ms. Johantgen stated that she would be executing

the loan agreements on behalf of the Authority and that a signature block section will be provided for educational management organizations and charter management organizations.

It was moved, seconded, and passed unanimously to adopt Resolution No. 14-Approval of the Form of the Loan Agreement for the Revolving Loan Fund Program.

Resolution 14-15 – Approval of the Revolving Loan Fund Program Recommendations and Amounts for the Schools listed in Table C.

Ms. Johantgen introduced staff analysts, David Weinberg and Kristen Schunk who presented and reported on the award recommendations.

In January 2014, the Board adopted emergency Program regulations. In early February 2014, CSFA notified all California charter schools of the availability of the 2013-14 Program funding round and required all applications to be submitted to the Authority by February 24, 2014 at 5:00 P.M.. In total, sixty applications were received; however, 10 applications were received after the deadline. Per Authority board direction, Authority was tasked with reviewing the late applications only if funds were available after the 50 on-time applications were fully evaluated and vetted for funding.

Since February, CSFA consultant, Sjoberg Evashenk Consulting, Inc. (SEC), and Authority staff have been assessing the 50 loan applications. Authority followed the framework established by statute and regulation in the California Education Code Section 41365(d) and Code of Regulations Section 10170.20(a) and Section 10170.20(b)(4) in conducting the following review and evaluation process.

Staff members, Schunk and Weinberg reported on the application process and the methodology used to determine the loan recommendations. They conducted a package review, which included the operational analysis to determine whether minimum qualifications were met. They reported on two separate financial analyses, Part I: a fiscal evaluation based on a variety of qualitative indicators, and Part II: an analysis of financial data and ratios against benchmarks and industry practice using an internally created financial model to identify fiscal strengths and weaknesses. They reported on the Loan Recommendations and considered all operational and financial information and assumptions for each loan.

In addition to conducting the steps listed above, the application reviewers took the funding preferences set forth in program guidelines into consideration when developing recommendations for which schools should receive loans. For instance, Section 41365(e) of the Education Code states that "Priority for loans from the Charter School Revolving Loan Fund shall be given to new charter schools for startup costs." Program regulations reflect similar preference; therefore staff determined that loans to schools opening in 2014-15 would be given priority over schools that opened in 2013-14.

As such, staff reviewed two tiers of loans: (1) the 29 schools opening in 2014-15 that were considered priority one schools; and (2) the 16 schools that have already opened in 2013-14 that were classified as priority two schools. Loan requests from priority one schools opening next year totaled \$7.1 million, while loan requests from priority two totaled \$3.95 million. The total loan request of \$11.05 million exceeds available loan funds of \$10.5 million. In

addition, three schools withdrew their applications, and 2 were deemed ineligible. Authority staff has not begun the review of the 10 late applications at this time.

Staff is working to disburse loan funds to as many schools as possible prior to the end of the State's June 30 fiscal year end so that schools can receive this critical funding. To that end, Authority staff is bringing only priority one schools that have an active charter number and valid CDS code to the board for consideration at its June 11, 2014 meeting. Staff anticipates bringing additional loan recommendations to a subsequent June meeting.

Staff recommends that the Board adopt Resolution No. 14-15, approval of the revolving loan fund recommendations and amounts to the schools listed on Table A (attached). Staff is charged with providing schools with notification of loan approval, distributing loan agreements, executing loan agreements, and carrying out all necessary steps to disbursing funds to schools prior to the end of the fiscal year (June 30, 2014).

It was moved, seconded, and passed unanimously to adopt Resolution No. 14-15.

There being no additional public comments or other business to conduct, the meeting was adjourned.

Respectfully submitted,

Katrina Johantgen
Executive Director